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No. 983

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1962

BUCK WILLCOXSON, *Petitioner*

v.

UNITED STATES OF AMERICA, STEWART L. UDALL, As Secretary of the Interior, and KERR-MC GEE OIL INDUSTRIES, INC., *Respondents.*

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM OF KERR-MC GEE OIL INDUSTRIES, INC. IN RESPONSE TO PETITION FOR CERTIORARI

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Respondent Kerr-McGee Oil Industries, Inc. (Kerr-McGee) has claimed an interest in only a portion of the lands here in controversy. As was duly noted by the Court of Appeals (App. 5a, 313 F. 2d 884, 887), the District Court determined that Kerr-McGee's claims to mining interests therein "are not yet mature as against the United States." This ruling was not appealed from. The Court of Appeals expressly disclaimed passing upon Kerr-McGee's interests.

The matters passed upon by both of the courts below relate to the power and discretion of the Secretary of the

Interior under pertinent statutes and regulations. Kerr-McGee has not sustained justiciable injury from his actions. Neither is there any justiciable controversy between it and the Government as to his powers. Whatever right it has as to the lands is derived from the United States, and is no greater than that of the United States.

Petitioner's proposition that the actions of the Secretary should be reviewed by this Court is, in the circumstances, primarily for the Government itself to concede or to oppose.

Insofar as Kerr-McGee's rights may be affected by the petition filed herein, Kerr-McGee adopts the brief of the United States and Stewart L. Udall in opposition to the petition and does not desire to add to the arguments therein set forth.

Respectfully submitted,

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Counsel for Respondent.

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